## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION

NO. 5:14-CR-00090-FL-1

UNITED STATES OF AMERICA,	)	
	)	
	)	
V.	)	
	)	ORDER
GLEN ALLEN STEWART, JR.,	)	
	)	
Movant.	)	

The matter now comes before the court on a series of letters movant filed which are dated August 7, 2015, October 30, 2015, November 9, 2015, and December 28, 2015. Given the nature of the relief sought and the basis for the relief, movant's letters properly should be considered as seeking relief under to 28 U.S.C. § 2255.

Pursuant to <u>Castro v. United States</u>, 540 U.S. 375 (2003), the court hereby provides movant with notice that it intends to recharacterize his letters as an attempt to file a motion under 28 U.S.C. § 2255. The court also notifies movant of the § 2255 restrictions on second or successive motions, the one year period of limitations, and the four dates in § 2255 to be used in determining the starting date for the limitations period. <u>See</u> 28 U.S.C. § 2255. The court DIRECTS movant to file a response to this order within 21 days from the date of this order. The court advises movant that if, within the time set by the court, movant agrees to have his letters considered as a § 2255 motion,

<sup>&</sup>lt;sup>1</sup> Movant, in his October 30, 2015, letter references a motion for retrial pursuant to Federal Rule of Criminal Procedure 24 that he filed on October 23, 2014. However, the court's docket reflects that movant, through counsel, filed a "Notice of Withdrawal of Motion for a New Trial" on November 21, 2014, and the court terminated movant's motion.

the court shall consider the motion as one under § 2255 and shall consider it filed as of the date

movant's first letter was filed-August 7, 2015. If, however, movant fails to respond to this order,

the court will not treat his filings as a § 2255 motion but will construe the filings simply as

correspondence and no further action will be taken.

Where movant's filings do not substantially follow the form appended to the Rules

Governing § 2255 Proceedings and are therefore not in compliance with Rule 2(c) of the Rules

Governing § 2255 proceedings and Local Civil Rule 81.2 of this court, the clerk of court is

DIRECTED to send a copy of the appropriate form to movant. If movant requests that the court

consider his filings a § 2255 motion, movant must complete the § 2255 form in its entirety, sign it

under penalty of perjury (or a person authorized by movant, such as an attorney, may sign it) and

file the original with the clerk of this court. Movant is DIRECTED to return the form, in accordance

with these instructions, within 21 days from the filing of this order. Failure to do so may result in

dismissal of this action or the striking of movant's filings. Movant is cautioned that his filing on the

proper form will be considered the § 2255 motion in its entirety and the court will not review

movant's previously filed letters or other filings to glean any misplaced claims. All filings,

including § 2255 motions on the correct form, must be submitted to:

Clerk of Court

United States District Court, E.D.N.C.

Terry Sanford Federal Building

310 New Bern Avenue, Room 574

Raleigh, NC 27601

ATTN: Prisoner Litigation Division

SO ORDERED, this the 15th day of January, 2016.

LOUISE W. FLANAGAN

United States District Judge

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